

# **UTILIZATION OF LANGUAGE SERVICES FOR CLIENTS/PROSPECTIVE CLIENTS WITH LIMITED ENGLISH PROFICIENCY**

## **I. STATEMENT OF GOALS**

Legal Aid and Defender Association, Inc. – Civil Law Group (CLG) is committed to providing quality legal services to clients in their primary language.

CLG recognizes that meaningful access, effective client communication and the provision of quality legal services to Limited English Proficient (LEP) clients require the provision of language services in an appropriate language in the form of oral interpretation and, where required by this policy, translation services.

CLG recognizes that it is responsible for communicating with the client in an appropriate language and will do so by providing services through a bilingual case handler or by providing free, competent language services at all stages to allow communication between monolingual English speaking staff and the client.

CLG recognizes that interpreting and translation is an extremely skilled profession which requires education and training to acquire sufficient fluency in two languages and proper interpreting and translation skills.

CLG acknowledges that its clients are entitled to confidentiality and privacy, and that the utilization of interpreters and translators must be consistent with maintaining the client's secrets and confidences in accordance with the applicable rules of professional conduct.

Therefore, CLG adopts the following policy concerning the provision of oral interpretation and translation services to ensure that its staff can communicate effectively with LEP individuals and provide adequate information and legal assistance.

## **II. ASSESSMENT OF NEED**

The applicability of parts of the LEP policy is determined by the number of LEP eligible individuals in our service area. CLG defines an LEP person as one who “cannot speak, read, write or understand” the English language at a level that permits them to interact effectively with health care providers, social service agencies or conduct under daily personal business activities. Using that information, the CLG will translate its vital documents into Spanish and Arabic as described herein.

### **III. INTERPRETING**

A. CLG shall provide interpreters by hiring bilingual staff where possible, by contracting with outside interpreter services, by contracting with voluntary community interpreters where available and appropriate (however CLG will not depend solely on unpaid support from community organizations which have their own programs to operate), and by use of telephone language interpreting services when other competent services are not timely available.

B. Staff are encouraged to use professional interpreters and this policy explicitly discourages reliance on the use of family members and friends of clients.

1. Minor children or other clients or friends should not be permitted to serve as interpreters, except for the most routine conversations (e.g. to schedule an appointment, obtain name and address) or in the event of an extreme emergency when there is no other resource and only until the services of a bilingual interpreter can be obtained.

2. If a client insists on using the services of a family member or friend, the client shall be advised of his/her right to receive language services free of charge, and the staff member shall make appropriate inquiry of the client to assess whether:

- a. the interpreter has any conflicts with the client,
- b. the interpreter may feel uncomfortable answering for the client,
- c. the interpreter has sufficient ability to interpret,
- d. if utilizing the family member/friend as an interpreter may place the client in an unsafe situation, and explicitly assessing whether the client has been abused by the proposed interpreter by asking specific questions about the individual such as:
  - i. Has he ever hurt you?
  - ii. Are you afraid of him?
  - iii. Has he ever made you do something that you did not want to do?
  - iv. Has he ever threatened you?
  - v. What do you think he would do if . . . (client took specific action relevant to case, in terms of risk of harm)
- e. and/or any other inquiry necessary to ascertain the appropriateness of the proposed interpreter.

The services of a professional interpreter, whenever possible, shall be utilized for the purposes of this preliminary conversation with the client, which shall take place out of the presence of the family member/friend. The family/friend shall be advised that a private conversation is necessary because of the attorney-client privilege. If the client answers

affirmatively to any of the aforementioned inquiries, the staff member should strongly encourage the client to utilize the services of a professional interpreter. In doing so, the staff member shall be sensitive to any cultural issues and the impact on the attorney-client relationship. The client's choice, and the fact that the herein referenced procedure was implemented, will be noted in the file. Depending on the circumstances, the staff person may request that the client allow an interpreter hired by CLG to be present to ensure the adequacy of interpretation.

C. CLG will ensure that any person providing interpretation services for its clients understands their obligation to maintain client confidentiality.

1. When the interpretation occurs in person, the interpreter shall execute an agreement to maintain confidentiality (see Confidentiality Agreement, annexed hereto.) Interpreters should sign a written Affidavit affirming that all translation shall be accurate and complete.
2. When CLG utilizes a telephone language interpreting service:
  - a. CLG shall execute or obtain an agreement with the service regarding confidentiality.
  - b. When the service is utilized, the staff member shall remind the interpreter regarding the provisions of the agreement.
3. When the client's family member or friend is utilized as an interpreter, the casehandler shall document in the file that the procedure set forth in paragraph B2 above was followed, and that the casehandler explained to the client that CLG can not prevent the family member/friend from disclosing the client's confidences or secrets, and that the client was offered free interpretation services. The casehandler shall further document in case notes that the client waived their right to free interpretation services, and chose to use a family member/friend as an interpreter. Where applicable, the casehandler will review the language re interpreter services in the CLG retainer agreement or attestation statement.
4. When utilizing third parties as interpreters, the casehandler shall inform the client with respect to the impact thereof upon the attorney-client privilege.

D. Regardless of who is providing interpretation services, the casehandler shall explain to the interpreter the need for confidentiality, and shall reach an agreement regarding the mode of interpretation. The casehandler shall also ensure that there is an agreement regarding payment and billing, if applicable. The casehandler shall document in the file that this explanation occurred.

E. CLG will post waiting room notices in multiple languages that free interpreting services are available. CLG's recorded phone message will notify callers of their right to free interpretation or translation services.

F. At the first contact with the client by support and intake staff, a client's need for language services will be assessed. This assessment shall include a statement of the client's primary language, that is, the language in which the client is most comfortable speaking. If the client indicates a primary language other than English, the client will be asked whether the client is able to read in English or her/his primary language and which language is preferred for reading. The results of the se inquiries shall be noted in contacts and tasks.

G. An interpreter shall be utilized whenever the client OR the staff person thinks one would be helpful. The staff person must be confident that he/she can understand the client completely, and is able to accurately understand the facts of the case and the client's intentions/goals, even if the client denies that an interpreter is necessary.

H. No prior approval shall be required for the procurement of language services for up to one hour duration when needed. However, when time permits, approval for case related expenses shall be obtained in accordance with CLG policy and procedure.

I. CLG shall inquire as to the training and competency of any individuals with whom CLG contracts to provide interpreter services and CLG shall make every effort to select and/or contract with those individuals who have the skills needed to interpret: sufficient fluency and training in modes of interpretation and translation and the ethical standards

J. All LEP clients shall be informed that they can exercise the right to complain/grieve to the Managing Attorney by utilizing the services of Language Line, which can be accessed by calling the CLG office.

#### **IV. TRANSLATION**

A. Translation services and documents may be provided by in-house staff, volunteers, community agencies, other legal services providers, websites or paid or commercial services.

B. All documents, translated by whatever means, shall be translated accurately. Translation services will be provided, to the fullest extent possible, by qualified individuals with an adequate education and background in both languages, an ability to communicate precisely (content and grammar), and a knowledge of the legal system, court and litigation processes and legal terminology. All translated routine and form documents will be reviewed for quality and accuracy by a second translator. Other documents will be reviewed from time-to-time, and as resources permit, by a second translator for accuracy and quality.

C. Staff are encouraged to use professional translators. CLG staff shall follow the procedures set forth in III. INTERPRETING, Paragraph B, with respect to the use of using family and friends to provide language services, maintaining the attorney-client privilege and ensuring the adequacy of the language services. The casehandler will document in the case file that this procedure was followed and that the casehandler explained to the client that CLG cannot prevent the family member/friend from disclosing the client's confidences or secrets, and that the client waived her right to free translation services, and chose to use her family member/friend as a translator.

D. If the translator is not a CLG staff member, the casehandler shall explain to the translator the need for confidentiality, and their obligation to maintain confidentiality. The translator shall execute an agreement to maintain confidentiality. The casehandler will also inform the client of the impact of using a third party as a translator on the attorney-client privilege. The casehandler shall reach a written agreement with the translator regarding any fee, payment and billing therefore prior to engagement of services. Prior approval for payment of translation services shall be secured.

E. All vital forms will be available in an English/Spanish/Arabic version.

F. Case-Related Legal Services

1. When providing case-related legal services to LEP clients, CLG staff will consider whether any written materials produced or which are part of the case should be translated. Written materials shall be translated from English to Spanish/Arabic if necessary to ensure effective communication and client participation and understanding. Case file documentation will include which documents were translated, and copies of the documents in both languages shall be kept in the case file.

2. When providing case-related legal services to LEP clients who have indicated that they are unable to read in English, Spanish or Arabic, casehandlers will consider whether any written materials produced or which are part of the case should be translated in order to ensure effective communication and client participation and understanding. If so, sight translation, in which a qualified interpreter reads the document and tells the client what it says, shall be employed. The case file should document that sight translation was utilized for certain written materials, and document which written materials were so translated.

3. CLG staff may determine that translation of case-related, written materials, for example, routine correspondence with a third party or large and complicated documents may be unnecessary, impractical or counterproductive. Sight translation may then be utilized as an alternative, and utilization thereof, including which documents were so translated, will be documented in the case file.

4. CLG staff, when writing to clients in any language, shall strive to write at a level addressed to the client's educational and literacy level, and in a manner that can be understood by the client.

and/or distributed by CLG shall be translated into an English/Spanish/Arabic version. pursuant to the attached schedule which will be reviewed and revised annually. Upon request, and when appropriate, CLG will provide sight translation of any community legal education or other outreach or informational materials that it produces and distributes.

## **V. SUPERVISION AND EVALUATION**

At the time of case closure and supervisory review and sign-off, supervisors will review each case to determine if the need for language services was addressed. In connection with evaluation of a staff interpreter's job performance, the additional responsibility of providing interpretation shall be considered. In connection with evaluation of any staff person's performance, compliance with the LEP Policy shall be assessed.

Consideration will be given to adjust the compensation and duties of bilingual staff so that they are not treated unfairly or overburdened by extra work. Consideration will be given to adjust the caseload of advocates representing LEP clients through an interpreter or translator.

## **VI. TRAINING**

A. CLG casehandlers will be trained periodically on how to work with interpreters, language resources, and making services accessible and inviting to LEP clients. The Chief Counsel will designate a staff member as the LEP responsible person for facilitating such training.

B. Any bilingual staff who are sufficiently fluent in two languages to be utilized as interpreters or translators shall receive appropriate training in the various modes of interpretation and translation (e.g. consecutive, simultaneous, summarization, sight translation) and their proper use, as well as the ethical standards governing interpreters and translators. Although staff interpreters will not necessarily be expected to employ the techniques required of courtroom interpreters (e.g. maintaining high level of formality with no interaction with speaker, using the same level of language as the speaker and not explaining colloquialisms, not interpreting gestural language), and may be called upon to offer their opinion to clarify cultural differences that are reflected in language usage, the staff interpreter shall make it clear that she is doing so, and shall otherwise accurately and faithfully interpret.

**VII. REVIEW OF LEP POLICY**

The LEP responsible person shall ensure that CLG reviews compliance and effectiveness of this policy.